**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.13209 OF 1996

DATED 13th FEBRUARY, 2007

Between

Bonda Venkataramana

... Petitioner

AND

The District Collector, Visakhapatnam and others.

.... Respondents

**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.13209 OF 1996

**ORDER:**

The petitioner is allegedly in occupation of land in survey No.134/7 (patta No.79) admeasuring Acs.0.05 cents. The third respondent initiated action under A.P.Land Encroachment Act, 1905 (the Act, for brevity) and issued impugned notice under Section 7 of the Act. Aggrieved by which, the present writ petition is filed.

The petitioner contends that the land is Zeoriti land, where he has raised cashew garden and the provisions of the Act has no application. The third respondent filed counter affidavit opposing the writ petition *inter alia* on the ground that against notice under Section 7 of the Act, writ petition would not lie and that the petitioner has an effective alternative remedy. It is further stated that the land is Government land forming part of Bharanikam Village, which is in Chemudu Estate. The said Estate was taken over by the Government under Section 4(1) of the A.P.(Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948, and therefore, the entire extent of land in survey No.133 corresponding to old survey No.692/7 vests in Government.

Though the counter affidavit is filed two months ago, no reply affidavit is filed denying the counter averments. The petitioner filed the present writ petition at the stage of notice under Section 7 of the Act. Section 7 of the Act contemplates the issue of notice calling upon the occupier of the Government land to show cause as to why the land should not be handedover to the Government after removing the structures made on the land. Even if a person denies the assertion of the Mandal Revenue Officer that it is a Government land, nothing prevents such person to file appropriate explanation/reply to the show cause notice. The petitioner filed writ petition without doing so.

Therefore, this Court is not inclined to interfere. If the petitioner has not submitted explanation so far, it shall be open to him to submit explanation, which shall be considered by the third respondent in accordance with law but before passing orders under Section 6 of the Act.

The writ petition, with the above observations, is dismissed. No costs.

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**(V.V.S.RAO,J)**

13.02.2007.
pln